

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOSEPH MICHAEL DONNETTE-SHERMAN,

V.

**Plaintiff,**

STATE OF WASHINGTON, et al.,

## Defendants.

CASE NO. C17-5600 BHS

## ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation ("R&R")

of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 41, and

Plaintiff Joseph Michael Donnette-Sherman’s (“Donnette-Sherman”) objections to the

R&R, Dkt. 42.

On December 19, 2018, Judge Christel issued the R&R recommending that the

Court grant Defendants' motion to dismiss because Donnette-Sherman failed to state a

claim. Dkt. 41. On January 11, 2019, Donnette-Sherman filed objections. Dkt. 42.

The district judge must determine de novo any part of the magistrate judge's

1 modify the recommended disposition; receive further evidence; or return the matter to the  
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3       In this case, Donnette-Sherman fails to assert valid objections. Donnette-  
4 Sherman's claims are based on alleged violations of his rights during his criminal trial in  
5 state court. The law is clearly established that Donnette-Sherman may not challenge such  
6 alleged violations unless he successfully invalidates that conviction. Therefore,  
7 Donnette-Sherman's civil rights claims against the prosecutor and his court-appointed  
8 counsel necessarily fail because his conviction has not been invalidated.

9       The Court having considered the R&R, Donnette-Sherman's objections, and the  
10 remaining record, does hereby find and order as follows:

- 11       (1)    The R&R is **ADOPTED**;
- 12       (2)    Defendants' motion to dismiss, Dkt. 35, is **GRANTED**;
- 13       (3)    Donnette-Sherman's *in forma pauperis* status is **REVOKE**D for purposes  
14                   of appeal; and
- 15       (4)    The Clerk shall enter a JUDGMENT and close the case.

16       Dated this 2nd day of April, 2019.

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BENJAMIN H. SETTLE  
United States District Judge